

## Election Advisory Committee (EAC)

Minutes

Wednesday, April 18, 2018

9 a.m. to noon

The Fairmont Waterfront, Cheakamus Room  
900 Canada Place Way, Vancouver

### Attendees

#### Committee Members

- Jordan Reid, BC NDP
- Raj Sihota, BC NDP
- Donald Silversides, British Columbia Liberal Party
- Katy Merrifield, British Columbia Liberal Party
- Chris Pettingill, Green Party Political Association of British Columbia

#### Elections BC Staff

- Keith Archer, Ph.D., Chief Electoral Officer (Chair)
- Nola Western, CPA, CA, Deputy Chief Electoral Officer, Funding and Disclosure
- Anton Boegman, Deputy Chief Electoral Officer, Electoral Operations
- Arlene Carlson, Executive Coordinator (minutes)

#### Regrets

- Rita Fromholt, Green Party Political Association of British Columbia

Meeting commenced at 9 a.m.

# 1. Welcome and Introductions

Keith Archer, Chief Electoral Officer (CEO) welcomed attendees and described the role of the Election Advisory Committee (EAC) as established by sections 14-16 of the *Election Act*. He also encouraged questions and discussion throughout the meeting. Introductions were made around the table.

# 2. Legislative Change Update

Keith provided an overview of the relevant changes that were passed during the fall session of the legislature.

## **Bill 3 – Election Amendment Act, 2017**

Bill 3 fundamentally restructured electoral financing in British Columbia. The changes are summarized here:

<http://elections.bc.ca/docs/election-amendment-act-2017.pdf>

## **Bill 5 – Constitution Amendment Act, 2017**

Bill 5 changed B.C.'s fixed election date to the third Saturday in October every four years. The Bill also changed the format of advance voting (to six consecutive days starting eight days before General Voting Day).

## **Bill 6 – Electoral Reform Referendum 2018 Act**

Bill 6 enables a referendum on electoral reform to be conducted; voting must close no later than November 30, 2018.

## **Discussion Questions**

- Question – Is there any indication on when we will receive next steps on the administration of the referendum from government?
  - Answer – Not yet.
- Question – Regarding the limitations on fundraising for a leadership contest, is there anything in place to prevent a party from having a superficial leadership contest in order to raise money?
  - Answer – The *Election Act* does not prevent a registered political party from having more than one leadership contest during a year, but those contests must be held in good faith and not to circumvent the contribution limits established by the Act.
- Question – Regarding installment payments for reimbursements of campaign expenses, is there a process in place to deal with over or under payment when the final report is submitted?
  - Answer – This is addressed in the Act. The first installment is a reimbursement of 50% of the funds claimed, and the final installment is paid only after our final review of the claim. EBC is currently working to develop the process. In an ideal world, we would have a system in place where claims can be filed electronically.

### 3. Administrative Monetary Penalty Policy discussion

Nola advised the group that this [policy](#) was adopted after consultation with this committee in February of this year.

Bill 3 (*Election Amendment Act, 2017*) changes placed an obligation to apply a monetary penalty of a discretionary amount if the Chief Electoral Officer determines an individual or organization has not been in compliance with specific sections of the *Election Act*. This policy is intended to ensure that Elections BC follows a fair, reasonable and transparent process in making a determination, and in assessing a penalty amount if a determination is made.

The policy provides the subject of an investigation with information about the investigative process and, if appropriate, reasonable notice that a determination is possible. It ensures that the subject can review the investigative case, and have an opportunity to be heard and make representation prior to a final determination being made.

The policy also explains the criteria that Elections BC will use to determine the penalty amount, and gives the subject the opportunity to make submissions on that as well.

#### Discussion Questions

- Question – Will the names of those in contravention of the Act be published only if there is a determination of non-compliance?
  - Answer – Yes, that is correct.
- Question – When you send out a notification, how do you know they received it?
  - Answer – Notifications are sent by registered mail.

### 4. Recommendations for Legislative Change

Keith advised the group that Section 12(2)(a) of the *Election Act* empowers the Chief Electoral Officer “to make recommendations to the Legislative Assembly respecting amendments to the *Election Act* or other enactments affecting election matters.” It is customary at Elections BC that such a report on recommendations for legislative change is issued within a year following each provincial general election.

Furthermore, section 16(2)(c) of the *Election Act* provides that the Chief Electoral Officer consult with the Election Advisory Committee before making a recommendation under section 12(2)(a) respecting an amendment to the *Election Act* or another enactment.

This meeting is conducted for the latter purpose. EBC’s intention is to submit a report on recommendations for legislative change to the Legislative Assembly in the near future.

In this report, there are four priority recommendations. In addition, there is a longer list of what we describe as “technical” recommendations, which are categorized as those relating to electoral operations or funding and disclosure.

Keith covered the four priority recommendations in the report<sup>1</sup>. The four priority recommendations are:

- Allow 16- and 17-year-olds who will become eligible to vote to pre-register, so that they will be added to the voters list automatically when they turn 18
- Provide Elections BC with greater access to information held by public bodies to help maintain the voters list
- Use technology to modernize voting and counting administration while maintaining paper ballots
- Make the election period longer in unscheduled general elections to allow more time for candidate nominations, material distribution, staffing, and communicating with voters.

### **Discussion Questions**

- Question – What impact will electronic strike-off have on those wishing to scrutinize ballot counting and other processes?
  - Answer – EBC recommends that a legislative committee be struck to discuss these issues. Scrutineers would still be welcome in voting places under the new model, and could review images of scanned ballots and how the tabulator counted them during a review period following initial count. The tabulators in use in other jurisdictions have proven to be extremely accurate. Political participants might also have the opportunity to scrutinize other aspects of the process, such as the programming of machines.

Keith turned the floor over to Anton and Nola to present the technical recommendations related to electoral operations and campaign finance.

These technical recommendations are designed to address issues that will improve our ability to effectively administer the Act and improve accessibility to the electoral process<sup>2</sup>.

### **Discussion Questions**

- Question – Regarding the residential address of imprisoned individuals, how would that work if a lot of people were arrested at the same place? Would that put a large number of people in one electoral district?
  - Answer – Not necessarily. Individuals identify their place of residence. The intent of this recommendation is to provide more options for those voters, especially those who do not have family in B.C. or who were previously of no-fixed address. Not all voters would select that option for their place of residence.
- Question – What if an individual is from outside of B.C. but incarcerated here?
  - Answer – they would then vote in the jurisdiction of their residence, under the laws of that province.

1 For full details, refer to the report on the Elections BC website here (the report was tabled in the Legislative Assembly on May 7, 2018): <http://elections.bc.ca/docs/rpt/2018-CEO-Recommendations.pdf>

2 For full details, refer to pages 7-10 of the recommendations report, linked to in footnote 1 above.

- Question – If something happened and two ballots went into a secrecy envelope, what would happen?
  - Answer – The legislation states that if on opening a secrecy envelope, more than one ballot is found, the secrecy envelope must be resealed and set aside. However, sometimes two ballots are stuck together when issued by mistake. When we are made aware of this situation, we can write an Order to allow the district electoral officer to inspect those two ballots. If only one is marked, the Order allows it to be carried forward for counting. The recommendation on this issue would provide that ability to a district electoral officer, without requiring an Order.
- Question – How long have there been nomination deposits?
  - Answer – Since approximately 1995.
- Question – How many candidates don't have their deposits refunded?
  - Answer – For the 2017 Provincial General Election, 158 of the 371 candidates did not have their nomination deposits refunded. In 2013 it was 193 out of 376 candidates.
- Question – Regarding the recommendation about accepting ordinary nominations on Writ Day: How long does it take between the time the Premier calls an election at Government House, and all the writs are signed?
  - Answer – It takes between 90 minutes and two hours to sign all the writs. EBC must accept nominations from 9 a.m. on Writ Day, but the legislation also states that we cannot accept nominations until the writ is signed.
- Question – If a candidate spends money (for a hotel, etc.) and is reimbursed by the party, is that ok?
  - Answer – Yes, as long as they are reimbursed, otherwise it is a political contribution subject to the limit (s. 186.2).
- Question – Financial agents seem dependent on others to do their job. Are they able to resign if they are uncomfortable, and be sure they are not hung out to dry?
  - Answer – They can resign at any time. Also, they are not liable for any debts incurred for the individual or party they are acting for unless they have made a personal guarantee.
- Question – What are the obligations of parties to know the identity of a person or group who is donating to them?
  - Answer – It has to be an individual, not a group, since only eligible individuals may make political contributions. The Act puts the limits on the contributor, not the party. But the party cannot accept a contribution that is in contravention of the Act.
- Question – Are imprisoned individuals allowed to vote?
  - Answer – Yes, they have the right to vote, so in order to do that they must meet the standard registration requirements. The recommendation is about giving them more options for a residential address to provide them with an accessible voting process.
- Question – Regarding the request for more data on voters from more sources, is it more data you want? Would this information flow through to political parties?
  - Answer – The request is not about more data, it is about maintaining the most up to date voters list and the improvements that would be possible by having information from additional public body sources. The legislation would determine use, collection and disclosure.

- Question – Have you talked to the privacy commissioner about this issue? I suggest you get buy-in from the privacy commissioner for this recommendation.
  - Answer – We do talk with him; he understands we need voter information to administer the *Election Act*. We have not talked specifically about this recommendation, but in general we discuss our need for information.

- Question – Does research suggest that provisional registration encourages people to vote?
  - Answer – Research has shown that almost all of the decline in voter turnout over the past generation owes to lower rates of voter engagement amongst the youngest eligible voters. Whereas voters older than 35 years of age are turning out at provincial elections in proportions similar to long-term rates, turnout has declined sharply for the youngest electors.

It's also been shown that voter registration has a strong impact on voter turnout. Those who are not registered are much less likely to vote than those who are registered.

A final piece of the puzzle is that rates of voter registration are not consistent amongst age groups. For those over 35 years of age, over 95 percent of eligible voters are on the voters list. For those 18 to 24 years of age, that percentage drops to about 70 percent of eligible voters.

This finding has led a number of jurisdictions in Canada to provide the election agency with the authority to establish a category of registration, typically known as provisional registration, for 16- and 17-year-olds who otherwise meet the qualifications for registering. Once these voters turn 18, they automatically are transferred to the voters list.

We believe this authority would enable Elections B.C. to work towards having higher rates of voter registration amongst 18- to 24-year-olds and would provide new opportunities to engage with other agencies, such as schools or the drivers licensing authority, to provide increased exposure to voter registration in advance of those people turning 18.

- Question – Regarding the on-demand election calendar, are there any implications around spending limits if the writ period is extended?
  - Answer – We have not considered that; the limits could be pro-rated. It would extend the period for ordinary nominations.
- Question – On the voter modernization piece, who sets the time period for the recommendations? You recommend 3-6 years.
  - Answer – That time period is our attempt to provide a reasonable time frame for the changes. In the end, the legislative committee would set the time frame.
- Question – EBC is busy, is this the best time to bring these recommendations to the table?
  - Answer – This is a time when many electoral agencies are modernizing voting administration. If a legislative committee is struck, we hope in this election cycle, any changes brought in would be based on when that process concludes.
- Suggestion – Consider recommending that in the event of on-demand election, General Voting Day be held on a Saturday.
  - Answer – Noted.

- Question – Advance voter data is received through candidates. Could that be received by the party instead or as well?
  - Answer – This is based on the requirements of the legislation. We believe the Legislative Assembly was intentional in distributing the data in that manner.
- Question – Thinking about new fundraising limits, we are dependent on electronic systems, and it sets up a situation that is a huge barrier to starting a new party. Is it time for EBC to provide a standardized system that provides financial tracking?
  - Answer – We are trying to provide that through electronic filing systems, however the development has been slower than we expected. We continue to work on this project. Ours is not a single integrated system, but several different systems. We are making some headway, but our systems are not yet as integrated as they could be.
- Question – Did you say you are discussing the recommendations with the Select Standing Committee on Finance and Government Services? Why?
  - Answer – The report goes to the Legislature first. Since we have no dedicated committee (as does the Representative for Children and Youth for example), we consult with the finance committee on this issue as a matter of personal choice. This will be discussed at the spring meeting.

## **5. Other Business – Candidate Nomination Booklet**

Anton advised the committee that EBC is working on a project to improve the nomination process for candidates, the long term vision being to create an online candidate portal. One element of this project has been a re-design of the nomination booklet based on best practices in public sector form design.

EBC will be conducting usability testing of the re-designed version in Victoria on May 2 and 3. Anton invited the parties represented on the Election Advisory Committee to participate in this process. The requirement is for one person per party to attend a 60 to 90 minute session on either of the two dates noted. Our staff will observe how the user completes the process and the user will be able to provide feedback as well.

## **6. Closing Remarks**

Keith asked Committee members to review the draft recommendations for legislative change and to provide any suggestions to him by close of business on Monday, April 23.

Keith thanked members for their thoughtful comments and their time and bid them farewell as his term ends on May 31.

Meeting was adjourned at 11:40 a.m.